

JOINTLY SUBMITTED

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CM CAPITAL SERVICES, LLC, d/b/a
CONSOLIDATED MORTGAGE f/k/a
CONSOLIDATED MORTGAGE LLC

Plaintiff,

vs.

STEWART TITLE OF NEVADA; DOES I-
X; and ROE CORPORATIONS XI-XX,
inclusive,

Defendants.

STEWART TITLE OF NEVADA
HOLDINGS, INC.,

Third-Party Plaintiff,

vs.

FEDERAL DEPOSIT INSURANCE
CORPORATION, as receiver for Franklin
Bank, S.S.B.; DOES I-X; and ROE
BUSINESS ENTITIES I through X,

Third-Party Defendants.

Case No. 10-CV-00317-JCM-(CWH)

(Consolidated with Adv. Proceeding 09-01114)

ORDER

1
2 CONSOLIDATED MORTGAGE, a Nevada
3 limited liability company,

4 Cross-claimant,

5 vs.

6 TERRA CONTRACTING, INC.; FEDERAL
7 DEPOSIT INSURANCE CORPORATION,
8 as Receiver for Franklin Bank, S.S.B.; and
MULTIBANK 2009-1 CML-ADC
VENTURE, LLC,

9 Cross-Defendants.

10 On October 7, 2011, a hearing was held on (1) Cross-Claimant Consolidated Mortgage's
11 Motion for Summary Judgment on its First Cross-Claim (Doc. 54); (2) Cross-Defendant Multibank
12 2009-1 CML-ADC Venture, LLC's Motion for Summary Judgment on Consolidated Mortgage's
13 First Cross-Claim (Doc. 60); (3) Cross-Defendant Multibank 2009-1 CML-ADC Venture, LLC's
14 Countermotion for Summary Judgment on Consolidated Mortgage's First Cross-Claim (Doc. 65);
15 (4) Consolidated Mortgage's Evidentiary Objection to the Declaration of Kelley Lee (Doc. 68); and
16 (5) Consolidated Mortgage's Objection to Multibank's Countermotion for Summary Judgment
17 (Doc. 74). Consolidated Mortgage was represented by Eileen R. Ridley and Patrick T. Wong of
18 Foley & Lardner LLP. Multibank 2009-1 CML-ADC Venture, LLC was represented by Rodney
19 M. Jean and Robert Hernquist of Lionel Sawyer & Collins. Additionally, Aaron R. Maurice of
20 Woods Erickson Whitaker & Maurice, LLP appeared on behalf of Defendant/Third Party Plaintiff
21 Stewart Title of Nevada/Stewart Title of Nevada Holdings, Inc. and Jeffrey O. McAnallen of
22 Markus Williams Young & Zimmermann, LLC telephonically appeared on behalf of Third Party
23 Defendant/Cross-Defendant Federal Deposit Insurance Corporation, as Receiver for Franklin Bank
24 S.S.B.

25 Having considered all the papers and documents on file herein, including all motions,
26 oppositions and replies, together with the evidence presented in support thereof, and good cause
27 appearing therefore, the Court makes the following determinations:
28

1 IT IS HEREBY ORDERED THAT Cross-Claimant Consolidated Mortgage's Motion for
2 Summary Judgment on its First Cross-Claim (Doc. 54), Cross-Defendant Multibank 2009-1 CML-
3 ADC Venture, LLC's Motion for Summary Judgment on Consolidated Mortgage's First Cross-
4 Claim (Doc. 60), Cross-Defendant Multibank 2009-1 CML-ADC Venture, LLC's Countermotion
5 for Summary Judgment on Consolidated Mortgage's First Cross-Claim (Doc. 65/72), Consolidated
6 Mortgage's Evidentiary Objection to the Declaration of Kelley Lee (Doc. 68) and Consolidated
7 Mortgage's Objection to Multibank's Countermotion for Summary Judgment (Doc. 74) are all
8 DENIED. Genuine issues of material fact preclude entry of summary judgment in favor of either
9 party.

10
11 Dated this 31st day of October, 2011.

12 
13 UNITED STATES DISTRICT JUDGE

14 Jointly submitted by:

15 FOLEY & LARDNER LLP

16 By: /s/ Patrick T. Wong
17 Eileen Ridley (*pro hac vice*)
18 Patrick T. Wong (*pro hac vice*)

19 *Attorneys for Cross-Claimant*
Consolidated Mortgage, LLC

20 -- AND --

21 LIONEL SAWYER & COLLINS

22 By: /s/ Robert Hernquist
23 Rodney M. Jean, Nevada Bar No. 1395
24 Robert Hernquist, Nevada Bar No. 10616

25 *Attorneys for Cross-Defendant Multibank*
2009-1 CML-ADC Venture, LLC